IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.871 of 2007
Date of Decision : 14.09.2007

Nand Kishore and others .....Petitioners

versus

Bimla Devi and otheres .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.J.S.Dhaliwal, Advocate for the petitioners
Mr.D.D.Bansal, Advocate for respondent Nos.1 & 2.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the order passed by the learned trial Court dated 13.12.2006 whereby an application filed by the plaintiff-petitioners for amendment of the plaint so as to correct the measurement of the plot in dispute, was declined.

The learned trial Court declined the application on the ground that such application has been moved at a belated stage as the plaintiffs were well aware about the amendment sought to be made in the plaint filed in the year 1989.

After hearing learned counsel for the parties, I find that the order of the learned trial Court is wholly untenable. The plaintiffs have sought only correction of the measurement of the plot in dispute. No new rights are being created nor any cause of action is introduced. Mere mistake in the total area is sought to be corrected which has been declined by virtue of the amendment. Such order has caused manifest injustice to the plaintiffs who have filed the suit for possession of the plot in the year 1988. It cannot

be said that the plaintiffs have any intention to delay the proceedings of the suit as it is their suit for possession. Consequently, the order passed by the learned trial Court declining the amendment is found to be suffering from patent illegalities and irregularities and has caused manifest injustice to the plaintiffs.

In view of the above, the present revision petition is allowed. The order dated 13.12.2006 passed by the learned trial Court is set-aside. The application filed by the plaintiff-petitioners for amendment of the plaint is allowed, as prayed for.

14-09-2007 **(HEMANT GUPTA)**
*mohinder **JUDGE**